

CHICAGO, MILWAUKEE & ST. PAUL RAILWAY
COMPANY *v.* KENNEDY.

ERROR TO THE SUPREME COURT OF THE STATE OF SOUTH
DAKOTA.

No. 246. Submitted March 9, 1914.—Decided March 16, 1914.

Chicago, Milwaukee & St. Paul Ry. Co. v. Polt, ante, p. 165, followed to the effect that the statute of South Dakota of 1907, c. 215, making railroad companies liable for double damages in case of failure to pay a claim or offer a sum equal to what the jury finds the claimant entitled to, is unconstitutional under the due process clause of the Fourteenth Amendment.

28 So. Dak. 94, reversed.

THE facts are stated in the opinion.

Mr. Burton Hanson, Mr. William G. Porter and Mr. E. L. Grantham for plaintiff in error.

No brief filed for defendant in error.

Memorandum opinion by direction of the court by
MR. CHIEF JUSTICE WHITE.

The ground upon which it is asserted in this case that the statute of the State of South Dakota, upon which the judgment of the court below here under review was based, is repugnant to the Constitution of the United States, was considered and held to be well taken in a case decided this term. (*Chicago, M. & St. P. Ry. Co. v. Polt, ante*, p. 165.) As that decision is conclusive upon all the issues here presented and establishes that the statute in question is inconsistent with the Constitution and void, it results that for the reasons stated in the case referred to, the judgment in this case must be reversed and the case remanded to the court below for further proceedings not inconsistent with this opinion.

Reversed.
